

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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MGM RESORTS INTERNATIONAL, et al.,  
Plaintiff(s),  
v.  
JOHN DOES 1-2,  
Defendant(s).

Case No. 2:14-CV-1369 JCM (NJK)

ORDER

Presently before the court is plaintiffs MGM Resorts International and CityCenter Land, LLC's (hereinafter "plaintiffs") motion for leave to file first amended complaint. (Doc. # 16). No response was filed, and the deadline to respond has now passed.

This is a trademark case arising out of two accounts on the website www.instagram.com ("Instagram"). Plaintiffs are the owners of the federally registered "MGM" and "VDARA" trademarks. Plaintiffs brought this action alleging that the owners of the Instagram accounts at issue are infringing on plaintiffs' trademarks. (Doc. # 1).

On October 26, 2014, plaintiffs filed a motion for leave to take discovery to determine the identity of the unknown defendants. (Doc. # 6). The court granted the motion. (Doc. # 7). Plaintiffs then attempted to obtain the requisite information from Instagram, with some difficulty. (Doc. # 16). Accordingly, plaintiffs moved for two additional extensions of time, (docs. # 10, 12), which the court granted, (docs. # 11, 13).

Plaintiffs now state that on Monday, January 12, 2015, they received a six-page document production from Instagram containing information for one of the accounts at issue. Plaintiffs' counsel has since determined the identity of the account user, contacted that individual, and

1 unsuccessfully attempted to settle the instant dispute. Plaintiffs are still working to identify the  
2 second account user. (Doc. # 16).

3 Plaintiffs seek leave of the court to file their first amended complaint to add the named  
4 defendant. Plaintiffs first note that they are entitled to amend their complaint as a matter of right,  
5 because the summons and complaint have not yet been served. *See* Fed. R. Civ. P. 15(a)(1).  
6 Alternatively, plaintiffs suggest that leave to amend is appropriate under the requisite legal  
7 standard. *See* Fed. R. Civ. P. 15(a)(2).

8 Federal Rule of Civil Procedure 15(a)(1)(A) allows a party to amend its pleading once as  
9 a matter of course within 21 days after serving it. Fed. R. Civ. P. 15(a)(1)(A). If the pleading is  
10 one to which a responsive pleading is required, the party may also amend within 21 days after  
11 service of a responsive pleading or 21 days after service of a motion under Federal Rule of Civil  
12 Procedure 12(b), (e), or (f), whichever is earlier. Fed. R. Civ. P. 15(a)(1)(B).

13 Otherwise, a party may amend only with the opposing party's written consent or the court's  
14 leave. Fed. R. Civ. P. 15(a)(2). Leave to amend "shall be freely given when justice so requires."  
15 *Id.* "In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory  
16 motive on the part of the movant, repeated failure to cure deficiencies by amendments previously  
17 allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility  
18 of the amendment, etc.—the leave sought should, as the rules require, be 'freely given.'" *Foman v.*  
19 *Davis*, 371 U.S. 178, 182 (1962). The local rules of federal practice in the District of Nevada  
20 require that a party submit a proposed, amended pleading along with a motion to amend. D. Nev.  
21 R. 15-1(a).


22 Plaintiffs have attached their proposed, amended complaint to this motion as required by  
23 D. Nev. R. 15-1(a). Good cause appearing, plaintiff's motion to amend complaint will be granted.

24 Accordingly,

25 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff's motion to  
26 amend complaint, (doc. # 16), be, and the same hereby is, GRANTED.

1 IT IS FURTHER ORDERED that plaintiff shall file an amended complaint identical to that  
2 attached to the motion to amend, (doc. # 16-1), within seven days from the date of this order.

3 DATED April 20, 2015.

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5 UNITED STATES DISTRICT JUDGE  
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